



[3510-60-P]

## **DEPARTMENT OF COMMERCE**

### **United States Patent and Trademark Office**

#### **National Telecommunications and Information Administration**

**[Docket No.: PTO-C-2015-0016]**

### **Public Meeting on Facilitating the Development of the Online Licensing Environment for Copyrighted Works**

**AGENCY:** Office of the Secretary, U.S. Department of Commerce; United States Patent and Trademark Office, U.S. Department of Commerce; National Telecommunications and Information Administration, U.S. Department of Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** Pursuant to the Department of Commerce's Internet Policy Task Force (Task Force) Green Paper on *Copyright Policy, Creativity, and Innovation in the Digital Economy*, released on July 31, 2013, the Task Force has sought and received comments from the public about how the Federal Government (Government) can facilitate the further development of a robust online licensing environment. The Task Force heard a range of stakeholder views at an initial public meeting in December 2013. The Task Force will hold another public meeting on

April 1, 2015, to explore this issue further, focusing specifically on how the Government can assist in facilitating the development and use of standard identifiers for all types of works of authorship, interoperability among databases and systems used to identify owners of rights and terms of use, and a possible portal for linking to such databases and to licensing platforms (similar in its goals to what has been established in the United Kingdom).

**DATES:** The public meeting will be held on April 1, 2015, from 9:00 a.m. to 4:00 p.m., Eastern Time. Registration will begin at 8:30 a.m.

**ADDRESSES:** The public meeting will be held at the United States Patent and Trademark Office in the Singapore and Venice Rooms of the Global Intellectual Property Academy on the second floor of the Madison Building, which is located at 600 Dulany Street, Alexandria, VA 22314. All major entrances to the building are accessible to people with disabilities.

**FOR FURTHER INFORMATION CONTACT:** For further information regarding the meeting, contact Hollis Robinson or Ann Chaitovitz, Office of Policy and International Affairs, United States Patent and Trademark Office, Madison Building, 600 Dulany Street, Alexandria, VA 22314; telephone (571) 272-9300; e-mail [EfficientOnlineMarketplace@USPTO.gov](mailto:EfficientOnlineMarketplace@USPTO.gov). Please direct all media inquiries to the Office of the Chief Communications Officer, USPTO, at (571) 272-8400.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

#### *A. Ongoing Government Initiatives*

The Department of Commerce's Internet Policy Task Force (Task Force) released *Copyright Policy, Creativity, and Innovation in the Digital Economy* on July 31, 2013 (Green

Paper).<sup>1</sup> The Green Paper was the product of extensive public consultation led by the United States Patent and Trademark Office (USPTO) and the National Telecommunications and Information Administration (NTIA). It provided a comprehensive review of the current policy landscape related to copyright and the Internet, and identified important issues that called for attention and possible solutions.

In October 2013, the USPTO and NTIA published a request for public comments relating to three areas of work flowing out of the Green Paper, including whether and how the Government can facilitate the further development of a robust online licensing environment.<sup>2</sup> The request for comments noted that building the online marketplace is fundamentally a function of the private sector, and described how that process has been progressing. It also concluded that there remains a need for more comprehensive and reliable ownership data, interoperable standards enabling communication among databases, and more streamlined licensing mechanisms. As described in the Green Paper, while much progress has been made in the licensing of creative content for online uses, the pace of development has varied from sector to sector, and we are still far from a world in which individuals, business entities and other organizations wishing to license rights to use works online can always easily locate the owners of rights in specific works or large repertoires of works and obtain licenses to engage in the desired activities. This is especially true with respect to high-volume, low-value transactions and uses.

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<sup>1</sup> The Green Paper is available at <http://www.uspto.gov/news/publications/copyrightgreenpaper.pdf>.

<sup>2</sup> The other two areas involved (1) policy issues relating to the legal framework for the creation of remixes; the relevance and scope of the first sale doctrine in the digital environment; the appropriate calibration of statutory damages in the contexts of individual file sharers and of secondary liability for large-scale infringement, and (2) the establishment of a multistakeholder dialogue on improving the operation of the notice and takedown system for removing infringing content from the Internet under the Digital Millennium Copyright Act (DMCA). Request for Comments on Department of Commerce Green Paper, Copyright Policy, Creativity, and Innovation in the Digital Economy, 78 FR 61337 (Oct. 3, 2013). Those topics have been the subjects of a number of roundtables and meetings since October 2013. See <http://www.uspto.gov/ip/global/copyrights/>.

The Task Force therefore posited that there could be an appropriate and useful role for Government in facilitating the process, whether by removing obstacles or taking steps to encourage faster and more collaborative action. It posed a number of questions regarding access to and standardization of rights ownership information, facilitating the effectiveness of the online marketplace, and the role of the Government in such matters. The request for comments also raised the possibility of pursuing the concept of a digital copyright hub similar to that being constructed in the United Kingdom.<sup>3</sup>

At the December 2013 public meeting, two panels addressed issues related to this topic, one discussing access to rights information and one discussing online licensing transactions. An archive of the webcast of the public meeting is available at

<http://new.livestream.com/uspto/copyright>. A transcript of the public meeting is available at

[http://www.uspto.gov/ip/global/copyrights/121213-USPTO-Green Paper Hearing-Transcript.pdf](http://www.uspto.gov/ip/global/copyrights/121213-USPTO-Green_Paper_Hearing-Transcript.pdf). Copies of the comments received are available at

[http://www.uspto.gov/ip/global/copyrights/green\\_paper\\_public\\_comments.jsp](http://www.uspto.gov/ip/global/copyrights/green_paper_public_comments.jsp).

The Copyright Office is also engaged in a number of activities to improve its own public databases of rights information as well as connecting them to those maintained by the private sector. In March 2013, the Copyright Office solicited public comments regarding possible improvements to its registration and recordation functions. It focused on making the registration process more user-friendly, making access to public registration records more robust and versatile, ensuring that the information in those records is accurate and up-to-date, using proper

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<sup>3</sup> The Copyright Hub homepage is available at <http://www.copyrighthub.co.uk/>.

data and metadata standards and integrating with third party databases.<sup>4</sup> The Technical Upgrades Special Project Team delivered a report to the Register on February 18, 2015, suggesting technical upgrades necessary to enable, among other things, improved searchability, collection of appropriate data including identifiers, integration with third party databases, and the development of a data repository.<sup>5</sup>

The Copyright Office has also solicited public comments and held public meetings regarding strategies for the electronic recordation of documents relating to transfers of copyright ownership, including the use of standard identifiers and other metadata standards.<sup>6</sup> In a December 2014 report, Robert Brauneis, the Kaminstein Scholar in Residence, made a number of recommendations, including accommodating standard identifiers in registration and recordation documents to enable interoperability with other databases and developing an application programming interface (API) allowing third parties to develop software to retrieve data from Copyright Office records.<sup>7</sup> In February 2015, the Copyright Office issued a Report on Copyright and the Music Marketplace, which examined the current systems for licensing of musical works and sound recordings in the United States and made a number of recommendations for updating and improving those systems.<sup>8</sup> Among these recommendations was one that would involve the use of standard identifiers for music: the creation of a “general”

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<sup>4</sup> See U.S. Copyright Office, *Technological Upgrades to Registration and Recordation Functions*, 78 FR 17722 (Mar. 22, 2013), <http://www.copyright.gov/fedreg/2013/78fr17722.pdf>.

<sup>5</sup> See U.S. Copyright Office, *Report and Recommendations of the Technical Upgrades Special Projects Team* (Feb. 2015), [http://www.copyright.gov/docs/technical\\_upgrades/usco-technicalupgrades.pdf](http://www.copyright.gov/docs/technical_upgrades/usco-technicalupgrades.pdf).

<sup>6</sup> U.S. Copyright Office, *Strategic Plan for Recordation of Documents*, 79 FR 2696 (Jan. 15, 2014), <http://copyright.gov/fedreg/2014/79fr2696.pdf>.

<sup>7</sup> Robert Brauneis, Abraham L. Kaminstein Scholar in Residence, U.S. Copyright Office, *Transforming Document Recordation at the United States Copyright Office* (Dec. 2014), <http://copyright.gov/docs/recordation/recordation-report.pdf>.

<sup>8</sup> U.S. Copyright Office, *Copyright and the Music Marketplace* (Feb. 2015), <http://copyright.gov/docs/musiclicensingstudy/copyright-and-the-music-marketplace.pdf>.

music rights organization (GMRO), a non-profit entity designated and regulated by the government, to supplement the activities of music rights organizations (MROs) with regard to licensing musical works. The proposed GMRO would maintain a publicly accessible database of musical works represented by each MRO and by the publishers who directly license interactive performances/downloads, as well as of sound recording data. The proposed GMRO would use standard identifiers, and would actively gather missing data, correct flawed or conflicting data, handle competing ownership claims and develop additional data to match sound recordings with musical works. It would serve as the default licensing and collection agent for musical works (or shares of works) that licensees were unable to associate with an MRO or a direct licensing publisher. The Copyright Office also raised the possibility that its copyright registration database could be modified to incorporate standard identifiers, and stated the belief that the best strategy to address data issues would be to strongly incentivize the universal adoption and dissemination of several data standards.

The Task Force is interested in examining these recommendations as a potential solution to at least some of the licensing problems that have been identified in the music sector. We will also consider alternative proposals, as well as looking at the use of standard identifiers in other creative sectors and identifier schema to enable interoperability among them.<sup>9</sup> Finally, we will look at the desirability and feasibility of U.S. stakeholders establishing or participating in a copyright hub that would include all types of works and facilitate multi-media licensing.

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<sup>9</sup> These unique identifiers (hereafter referred to as standard identifiers or identifiers) include International Standard Audiovisual Number (ISAN), International Standard Book Number (ISBN), International Standard Music Number (ISMN), International Standard Name Identifier (ISNI), International Standard Recording Code (ISRC), International Standard Serial Number (ISSN), and International Standard Work Code (ISWC), Digital Object Identifier (DOI), Interested Parties Information (IPI), International Standard Text Code (ISTC), Open Researcher and Contributor ID (ORCID) and Entertainment Identifier Registry (EIDR).

Possible roles for the Government, apart from the Copyright Office's initiatives described above, include promoting greater use of standard identifiers in all sectors as well as interoperability among standards and databases; encouraging the creation of a standardized framework for APIs that could facilitate automatic access to information; working with other countries to prioritize the use of identifiers or standards; participating in the development of international licensing projects; facilitating the creation of or participation in a "copyright hub;" and convening stakeholders to take forward any related initiatives.

The April 1 public meeting will delve into specific aspects of these issues, building on the earlier questions, the public submissions, and the December 2013 discussion. Ultimately, the information obtained through this public process will be used to inform the Administration's views and recommendations.

#### *B. Questions for this Public Meeting*

We plan to discuss whether the enhanced use and interoperability of standard identifiers across different sectors and geographical borders can help the continued development of online markets, whether the United States should develop or participate in an online licensing platform such as the U.K.'s Copyright Hub, and what the role of the Government should be in furthering any of these efforts.

##### **1. Standard Identifiers**

The questions we hope to examine at the meeting include:

- Would greater use of standard identifiers help streamline licensing and facilitate the continued growth of an online marketplace?
- What conditions would likely lead to such greater use in each creative sector? How can the use of identifiers best be encouraged?

- To what extent does every type of work have one or more identifiers, and how and when are they used today?
- Are there ways in which identifiers should be used in order to maximize their usefulness? For example, should they contain or be linked to the relevant licensing information (e.g., ownership information, licensing terms)?
- Would it be advisable to combine separate public or private databases, for either the same or different types of works, into a comprehensive database or repository, or to link them through a hub? If so, how should this be accomplished and by whom?
- Is there a need to make the identifier schema interoperable?
- How can interoperability be ensured across sectors, and across geographical borders?
- Can a standards-based approach facilitate API development to enable seamless data exchange between databases containing unique identifier data? In the field of music, would the creation of a GMRO as proposed by the Copyright Office be sufficient to resolve the issues identified in the Green Paper with respect to access to comprehensive, standardized and interoperable rights ownership information? If not, why not?
- What other options would be possible and desirable, either with or without the need for legislation? Would they require government regulation or oversight?

## 2. Copyright Hub

In the Green Paper, the Task Force discussed the U.K.'s Copyright Hub, a portal established and operated by industry to make licensing easier, especially for low-value, high-volume requests, by linking to a network of private and public copyright exchanges, rights



registries and other copyright-related databases, with the government playing a facilitating and advisory role.<sup>10</sup>

As it has evolved, the Copyright Hub is run by a non-profit company funded by the creative industries, with its technical development designed by the Connected Digital Economy Catapult, funded by the U.K. Government.<sup>11</sup> The public meeting will include representatives from the Copyright Hub, who will describe its status and operations. The discussion will explore whether a similar project would be desirable in the United States, or whether the U.K. Copyright Hub should or could be extended to further incorporate U.S. works and licensing information, and if so, whether and how the Government should be involved.

## **Public Meeting**

On April 1, 2015, the Task Force will hold a public meeting to hear stakeholder views on these topics. We look forward to hearing from all interested stakeholders, including creators, right holders, businesses that use copyrighted works, Internet intermediaries, and consumer and public interest groups. A draft agenda will be posted one week before the meeting.

The meeting will be webcast. The agenda and webcast information will be available on the Internet Policy Task Force website, <http://www.ntia.doc.gov/internetpolicytaskforce>, and the USPTO's website, <http://www.uspto.gov>.

The meeting will be open to members of the public to attend, space permitting, on a first-come, first-served basis. Pre-registration for the meeting is available at the "Register" tab at: <http://events.SignUp4.com/EfficientOnlineMarketplace>. The meeting will be physically accessible to people with disabilities. Individuals requiring accommodation, such as sign

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<sup>10</sup> Richard Hooper and Ros Lynch, *Copyright works: Streamlining copyright licensing for the digital age* (July 2012), par. 7, <http://www.copyrighthub.co.uk/Documents/dce-report-phase2.aspx>.

<sup>11</sup> More information about the Copyright Hub is available at <http://www.copyrighthub.co.uk/about>.

language interpretation, real-time captioning of the webcast or other ancillary aids, should communicate their needs to Hollis Robinson or Ann Chaitovitz, Office of Policy and International Affairs, United States Patent and Trademark Office, Madison Building, 600 Dulany Street, Alexandria, VA 22314; telephone (571) 272-9300; e-mail [EfficientOnlineMarketplace@USPTO.gov](mailto:EfficientOnlineMarketplace@USPTO.gov) at least seven (7) business days prior to the meeting. Attendees should arrive at least one-half hour prior to the start of the meeting, and must present a valid government-issued photo identification upon arrival. Persons who have pre-registered (and received confirmation) will have seating held until 15 minutes before the program begins. Members of the public will have an opportunity to make comments at the meeting.

Dated: March 9, 2015.

Michelle K. Lee,

Deputy Under Secretary of Commerce for Intellectual Property and  
Deputy Director of the United States Patent and Trademark Office.

Lawrence E. Strickling,

Assistant Secretary for Communications and Information.

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